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Chairperson: Mr. Penke ..... (Latvia)

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The meeting was called to order at 10.10 a.m.

Agenda item 69: Promotion and protection of human rights (*continued*) (A/64/81)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (A/64/159, A/64/160, A/64/170, A/64/171, A/64/175, A/64/181, A/64/186, A/64/187, A/64/188, A/64/209, A/64/211, A/64/211/Corr.1, A/64/213, A/64/213/Corr.1, A/64/214, A/64/216, A/64/219, A/64/226, A/64/255, A/64/256, A/64/265, A/64/272, A/64/273, A/64/279, A/64/289, A/64/290, A/64/293, A/64/304, A/64/320 and A/64/333)

(c) Human rights situations and reports of special rapporteurs and representatives (A/64/224, A/64/318, A/64/319, A/64/328, A/64/334 and A/64/357)

1. **Ms. Pillay** (High Commissioner for Human Rights), introducing her annual report (A/64/36), said that it was important to implement the Member State commitments to combat racial discrimination reaffirmed in the outcome document adopted by consensus at the Durban Review Conference. To follow up on the Conference, a special task force had been charged with mainstreaming the anti-racism agenda into all of the activities of the Office of the High Commissioner for Human Rights and other United Nations entities. She looked forward to the endorsement of the outcome document and allocation by the General Assembly of the necessary resources for the follow-up programme of work.

2. Despite progress made against discrimination on the grounds of sex, more must be done to strengthen the integration of women's rights into the work of the Office of the High Commissioner, and the activities of the new gender entity must be coordinated with relevant human rights mechanisms. The recent adoption by the Security Council of resolutions 1888 (2009) and 1889 (2009) was welcome, given that the Office of the High Commissioner had made protection of human rights, and particularly women's rights in situations of armed conflict, violence and insecurity, a priority.

3. She encouraged Member States to sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. She also advocated a human rights approach in response to the food, economic and financial crises, as well as in response to climate change.

4. The Office of the High Commissioner was working through partnerships with relevant international organizations and institutions to ensure that the right to development was integrated into their policies and strategies. Human rights should also be included in national policies aimed at alleviating poverty and implementing the Millennium Development Goals. Through participation in the United Nations Global Compact, her Office had contributed to the development of practical measures to enhance private sector knowledge and integration of human rights.

5. The Office of the High Commissioner had advanced the implementation of the United Nations Declaration on the Rights of Indigenous Peoples by carrying out country-specific initiatives, promoting indigenous entitlement to ancestral lands, the need of indigenous people to be involved in decisions regarding the industrial exploitation of their natural resources and the right to education.

6. Respect for human rights obligations must be at the centre of migration policies; her Office took a rights-based approach to the issue of human trafficking placing the interests of victims at the forefront.

7. The Office had continued to provide substantive support to the Human Rights Council, particularly in the context of the Universal Periodic Review. As a result of the process, various countries under review had firmly pledged to strengthen implementation human rights standards and cooperate with human rights mechanisms. It was important to strengthen the ties between the Universal Periodic Review, treaty bodies and special procedures mandate holders, currently 39 in number, so that the review would lead to specific measures. The review of the Council's work in 2010-2011 should lead to improvements in its working methods and address unresolved issues. She urged States to benefit from the work of the treaty bodies, and, in particular, from their prevention capabilities. While the human rights protection system was successful overall, States parties and other stakeholders should reflect on how to strengthen the treaty bodies and promote better coordination and coherence among those mechanisms.

8. Because field-oriented capacities played a crucial role in the work of the Office of the High Commissioner for Human Rights, a regional office for Europe had recently been opened, and a Rapid Response Unit, deployed in crisis situations, had been established. The field presences had assisted national human rights protection institutions to forge strong partnerships among themselves and had facilitated their interactions with United Nations mechanisms, including the Universal Periodic Review.

9. In its efforts to strengthen access to justice and ensure the harmonization of domestic legislation and procedures with international human rights law, the Office was developing guidance tools and carrying out capacity-building activities in the area of transitional justice. In the near future, the High Commissioner would address the Counter-Terrorism Committee, underlining the need to uphold human rights in the fight against terrorism.

10. In the context of efforts to mainstream human rights in the United Nations system, the Office had built a strong partnership with United Nations development agencies. It also continued to focus on enhancing the integration of human rights in all peace missions and special political missions.

11. The Office had identified six thematic priorities which would guide its work in the next biennium. The credibility of human rights work depended on a commitment to truth, impartiality and integrity, with no tolerance for double standards.

12. **Ms. Sapag** (Chile), welcoming the high priority which the High Commissioner attached to the protection of the rights of women and girls, as well as her intervention at the panel entitled Equality Before the Law: Concrete Steps to Further Women's Equality, organized by Chile in Geneva on 4 June 2009, asked for her views on the establishment of a special mechanism to address the inequality of women before the law and to strengthen efforts by States in that regard.

13. **Ms. Blum** (Colombia) said that her delegation welcomed the priority given to elimination of racial, gender and religious discrimination by the High Commissioner, as well as the elimination of discrimination targeting marginalized groups, the protection of economic, social and cultural rights and the fight against inequality and poverty. Colombia had successfully presented a draft resolution in the Human Rights Council on the elimination of discrimination against women and was currently circulating a draft resolution aimed at revitalizing United Nations efforts to benefit people of African descent.

14. Colombia welcomed international observers and appreciated international cooperation in the area of human rights, in line with its policy of zero tolerance for human rights violations. Given that cooperation with the Office of the High Commissioner had been highly beneficial in helping Colombia to make progress on the protection of human rights, she asked for further information on the High Commissioner's priority areas and mechanisms for cooperation with States, human rights institutions and civil society organizations.

15. **Mr. Dahab** (Sudan) said that it was heartening that the High Commissioner would be guided by a commitment to truth, impartiality and integrity. Her work to enhance the right to development had his delegation's support, particularly since the Millennium Development Goals had yet to be realized. The adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights was welcome. However, the justiciability of those rights had not been established.

16. The Office of the High Commissioner should pay more attention to the issue of climate change, which affected many countries and triggered conflicts. Given the overlapping functions of human rights mechanisms in developing countries and the absence of such mechanisms in developed countries, the establishment of a regional Office in Europe was most welcome.

17. Regarding the fight against impunity, he said that international criminal jurisdiction should not be a political tool in the hands of a few countries. It must serve justice and equality and contribute positively to the cause of world peace.

18. **Ms. Xu** Jing (China) said that her delegation hoped that the Office of the High Commissioner for Human Rights and the Human Rights Council would pay greater real attention to the promotion and protection of economic, social and cultural rights, which were often overlooked in comparison to civil and political rights, as well as to the right to development, and would take practical measures to implement the Millennium Development Goals. Further information about the High Commissioner's ideas and plans in that regard would be appreciated.

19. The Office of the High Commissioner should strengthen coordination with the Human Rights Council in implementing the outcome document of the Durban Review Conference; it would be interesting to hear her views on its implementation. In 2010, the Human Rights Council would conduct a review of its status, and, in that connection, it might consider improving and strengthening its supervision of the work of the Office of the High Commissioner, which should be guided by the principles of neutrality, objectivity and impartiality, in strict compliance with the mandate given by the General Assembly. The Council should promote international cooperation and dialogue on human rights while avoiding confrontation.

20. While the Office had made efforts to diversify the composition of its staff, imbalances in geographical representation remained. China hoped that the Office would take the practical measures recommended in the second follow-up to the management review of the Office of the United Nations High Commissioner for Human Rights by the Joint Inspection Unit (A/64/96), and would report in a timely manner to the Human Rights Council on progress made.

21. **Ms. Mårtensson** (Sweden), speaking on behalf of the European Union, commended the High Commissioner's proactive and independent approach. With reference to plans to harmonize the working methods of the treaty bodies, she requested further details regarding how the Office intended to improve follow-up procedures and the next steps for mainstreaming human rights into the policies and practices of the United Nations. She also wished to know how States could best support the High Commissioner's efforts.

22. The European Union welcomed the strengthening of the Rapid Response Unit of the Office of the High Commissioner and was encouraged by the deployment of a human rights adviser to Honduras. While it was understood that the High Commissioner could not yet present the results of the fact-finding mission, an assessment of the impact of the deployment on the Organization's ability to monitor a situation of concern to many Member States would be of interest.

23. In the context of combating impunity, she asked how States could support United Nations efforts to ensure that parties to conflict were held accountable for possible violations.

24. Recalling the positions of the European Union on the issues of torture, the death penalty, and freedom of expression and conscience, she asked if there were any activities planned to address those issues in the coming year. The European Union looked forward to pursuing an intensified dialogue with the Office on a broad range of issues through the regional office in Brussels established in October.

25. **Mr. Wenaweser** (Liechtenstein) said that not enough had been done in the area of implementation of the numerous human rights standards which were being created. It would be helpful to know what the High Commissioner thought her Office could do in that regard. While the Universal Periodic Review was certainly a useful tool, it was still too early to make a determination about its effectiveness, before a full round of reviews had been completed. National judiciaries would now play a more important role in the fight against impunity. Information on the role to be played by the office in Geneva in that regard would be appreciated.

26. **Ms. Rasheed** (Palestine) said that while there had been countless United Nations reports and resolutions on actions committed against the Palestinian people by Israel in violation of international law, as well as appeals launched by the High Commissioner and other high-ranking officials, there had been no real implementation. She asked what the international community should do to ensure that the Goldstone Report, which documented the tragic consequences of the savage military aggression launched by Israel against the Gaza Strip on 27 December 2008 would not suffer the same fate, and to put an end to the culture of impunity prevailing in Israel.

27. **Mr. Loulichki** (Morocco) said that, in his view, the evaluation of the Human Rights Council provided for in General Assembly resolution 60/251, to take place by March 2011, should be characterized by complementarity between the United Nations offices in Geneva and New York; he would like to hear the High Commissioner's views on that matter. The Universal Periodic Review had been a success because by the end of 2009, half of the Member States would have undergone it. Just the fact that it ensured implementation of the recommendations of the treaty bodies provided significant added value.

28. His delegation encouraged the High Commissioner to continue the process of reflection on the content and

scope of freedom of expression as laid out in the International Covenant on Civil and Political Rights. It supported the High Commissioner's commitment to promote the right to development, whose importance had increased due to the economic crisis.

29. **Ms. Taylor** (New Zealand) said that her delegation fully supported the independence and integrity of the High Commissioner and appreciated her work to mainstream human rights into the work of the United Nations at all levels. Further details on what additional concrete measures could be taken to enhance her access to other United Nations bodies, including the Security Council, would be of interest.

30. With regard to the impact of climate change on human rights, it would be helpful to know how her Office, which had recently published a study on that subject, could further add value to the discussion, in particular in regard to the problems faced by small island developing States.

31. **Ms. Gendi** (Egypt) said that her delegation was grateful that the High Commissioner was emphasizing the right to development and economic, social and cultural rights, which had long been overlooked. She asked for information on programmes in those areas planned by the Office.

32. Following upon the question posed by the representative of Palestine, she requested additional information on the fact-finding mission in Gaza and elsewhere in the occupied Palestinian territories and on the support by the Office of the High Commissioner to the Goldstone Report.

33. Her delegation also requested more information about programmes to combat trafficking in persons as well as how the Office saw coordination of its work with other United Nations human rights mechanisms, including the United Nations gender architecture and various rapporteurs and special representatives.

34. **Mr. Rastam** (Malaysia) requested information on follow-up to the expert seminar on freedom of expression and advocacy of religious hatred constituting incitement to discrimination, hostility or violence held in October 2008. He also asked about the involvement of the Office of the High Commissioner in various interreligious and intercultural dialogue initiatives.

35. With regard to the impartiality of special procedures mandate holders, he asked how the High Commissioner planned to ensure their adherence to the Code of Conduct adopted by the Human Rights Council so that they demonstrated restraint, moderation and discretion in order not to undermine the independent nature of their mandate.

36. **Mr. Mohamed** (Maldives), referring to Human Rights Council resolutions 7/23 and 10/4, said that his delegation was heartened by the fact that States had recognized that climate change undermined a range of internationally protected human rights. However, he regretted that they had been unable to decide whether the impacts of climate change could be classified as human rights violations and what national-level obligations were applicable to the issue of climate change. The intent of the two resolutions had been to show that parties to the United Nations Framework Convention on Climate Change had a clear moral and legal obligation to protect those rights by reaching an ambitious and effective agreement at the United Nations Climate Change Conference in Copenhagen. His delegation would study carefully the outcome of that meeting and relevant work done by the special procedures mandate holders and treaty bodies before deciding on next steps, especially in the context of the unanswered questions mentioned earlier.

37. **Mr. De León Huerta** (Mexico) welcomed the high priority the High Commissioner gave to the human rights of migrants. She had set the goal of increasing the presence of the Office on the ground and strengthening its capacity to provide technical assistance to States, and since 2001 Mexico had benefited from the presence of a regional office. He asked what results had been achieved thus far and what initiatives there were in that area.

38. **Ms. Sicade** (United States of America) expressed appreciation for the work done by the Office of the High Commissioner in the field and for the priorities she had outlined. Further information was requested on where she saw weaknesses in international human rights mechanisms and her proposals to strengthen international human rights mechanisms, as well as on what Member States and civil society could do to help and to maintain the independence of the mechanism.

39. **Ms. Hendrie** (United Kingdom) emphasized that the High Commissioner's independence, was the basis of her credibility, and agreed that civil society was one of the keys to change on the ground. The United Kingdom would present an update on progress by

Member States in implementing recommendations in March 2010, and hoped to be able to report specific evidence. The Universal Periodic Review complemented other parts of the United Nations human rights machinery and was an effective catalyst for implementation. The field presences of the Office of the High Commissioner were an integral part of the United Nations early warning system. The partnerships established by the Office with many countries were welcomed. Views on the key achievements arising from the involvement of the Office in Nepal would be appreciated, as would further details about the High Commissioner's work on mainstreaming human rights throughout the United Nations system.

40. **Ms. Halabi** (Syrian Arab Republic) said that unfortunately, the High Commissioner had not mentioned the violations committed by Israel in the occupied Arab territories, despite the adoption of the Goldstone Report by the Human Rights Council. Her delegation appreciated the priorities stated by the High Commissioner, but wondered what she intended to do to protect human rights in armed conflict, and in particular, given her commitment to maintain neutrality and fairness, regarding the protection of the rights of people under foreign occupation.

41. **Mr. Tarar** (Pakistan) said that his delegation acknowledged the sincere efforts of the High Commissioner to rectify the geographical imbalance in her Office. However, the report of the Joint Inspection Unit (A/64/94) had revealed that the composition of the Office continued to reflect a serious imbalance against developing countries. He requested further information on how she planned to rectify the imbalance during the second year of her term, as well as how her Office would provide support to the special procedures mandate holders in following the Code of Conduct adopted at the intergovernmental level. Concerning the second priority, he asked for further elaboration on how she planned to combat religious discrimination.

42. **Mr. Mamdouhi** (Iran, Islamic Republic of) said that his delegation supported the High Commissioner's statement that there would be no tolerance for double standards in United Nations mechanisms. He requested elaboration on any initiatives to promote good practices in technical cooperation to build capacity among States in human rights protection.

43. **Ms. Pérez Álvarez** (Cuba) emphasized the importance of giving economic, social and cultural rights, and in particular, the right to development, the same importance as civil and political rights especially in the context of the economic and financial crisis, which was affecting developing countries most seriously. Her delegation awaited with interest the follow-up to the Durban Review Conference by the Office of the High Commissioner. The issue of geographic imbalance in the composition of the Office of the High Commissioner should be addressed as quickly as possible. The Universal Periodic Review mechanism, based on cooperation, dialogue and mutual respect, had been successful. It was important to avoid politicizing the work of the special procedures mandate holders and to respect the Code of Conduct. The Office of the High Commissioner should receive the necessary resources to allow all documents related to the Universal Periodic Review to be prepared and translated more promptly.

44. **Mr. Babadoudou** (Benin) said that his delegation supported the emphasis placed by the High Commissioner on activities in the field. Communities should take ownership of the work of human rights, along with development. His delegation wished to know how the High Commissioner intended to gain the necessary popular backing in the field. As one of the early supporters of General Assembly resolution 63/173 on the International Year of Human Rights Learning, Benin wished to know what measures the High Commissioner had taken and would take to ensure follow-up, given that his delegation was preparing a new draft resolution on the issue.

45. **Ms. Horsington** (Australia) welcomed the work of experts from the Office of the High Commissioner on indigenous justice systems. Her delegation strongly supported the independence of the High Commissioner and of the special procedures mandates and would like to know how that independence would be maintained. Australia wished to strengthen its cooperation with the High Commissioner.

46. **Mr. Elangovan** (India) asked what progress had been made in ensuring equitable geographical representation in the Office of the High Commissioner. He wondered whether it would be possible to provide further information on the in-depth evaluation of gender issues that the Office had conducted and whether the results would be available before the

beginning of the intergovernmental negotiations on reforms of the United Nations gender architecture.

47. **Ms. Pillay** (High Commissioner for Human Rights) thanked delegations for their comments and suggestions, in particular those made by the representatives of Colombia and Mexico on the value of the country offices. The Human Rights Council was an essential element of the overall reform of the United Nations, and had distinguished itself in a relatively short period of time from the Commission on Human Rights, in particular, by holding special sessions and by its Universal Periodic Review mechanism. She had encouraged the Human Rights Council to address chronic human rights situations and to conclude sessions with declarations, rather than resolutions, which could at times be contentious. States' support for the six priorities was welcomed, in particular economic, social and cultural rights and the right to development. The presence of the Office in 55 States not only allowed theory to be put into practice but also provided opportunities to gain new perspectives from the people directly concerned. She was guided by the mandate set out by the General Assembly; she stressed that it was important for the Human Rights Council and the Office of the High Commissioner to work together and to cultivate transparency and openness in all activities. In her view, dialogue would promote the independence of the Office of the High Commissioner. New York was encouraged to become actively involved in the 2010 review of the Human Rights Council. It was essential to achieve a consensus in both the Council and the General Assembly.

48. Improving geographical diversity was important for the credibility of the Office. She was doing her best to diversify and incorporate representatives from different legal systems, races, ethnicities and regions. There had been a steady increase in the representation of staff from underrepresented and non-represented Member States, with significant increases in the numbers of staff from Africa, Asia, Latin America and the Caribbean and Eastern Europe. That progress had been referred to in the report of the Joint Inspection Unit (A/64/94). In response to the question posed by Pakistan, she stated that the Office of the High Commissioner had tried to expand the pool of qualified candidates from the widest possible range of countries and backgrounds, sending announcements to relevant institutions around the world. Strategies were being developed for closer cooperation on recruitment activities with the United Nations country teams, the field offices of the Office of the High Commissioner and the permanent missions in Geneva. A human rights national competitive examination had been organized in 2008 for candidates from underrepresented countries, and recruitment had begun. However, the commitment of current staff was also valued, and certain staff rules must be respected, such as the 15-day rule, whereby a qualified internal candidate must receive priority over an outside candidate. Perhaps some of those regulations should be reviewed.

49. Given the risk of special procedures exceeding their mandate, the mandate holders and their Coordination Committee, taking the Code of Conduct very seriously, pursued constructive dialogue with Member States and the Council and, had adopted an internal advisory procedure in June 2008. The Office of the High Commissioner had held three informational meetings for new mandate holders and would take into account the concerns of Member States.

50. She agreed that it was too early to assess the universal periodic review, but did, however, stress that the participation and recommendations of Member States made it a useful tool and showed that the international community attached great importance to it. States were responsible for applying the resulting recommendations and she had specifically requested that they should receive the necessary technical assistance. Country teams and United Nations agencies had been made aware of the importance of those recommendations. She valued the harmonization of the recommendations of different bodies and would appreciate greater participation by civil society. The recommendations made in universal periodic reviews took those of treaty bodies into account. The Council and its bodies complemented each other; thus the universal periodic review fostered the implementation of international instruments. On behalf of treaty bodies, she urged Member States to give them the additional support they needed to complete their work successfully.

51. Replying to the question of the representative of Benin regarding application of General Assembly resolution 62/171 on the International Year of Human Rights Learning, she said that it came under the World Programme for Human Rights Education. In that regard, she mentioned the training resources available on the website of the Office of the High Commissioner for Human Rights, to support national and local human

rights learning capacities under the Assisting Communities Together Project, which gave financial aid to local initiatives. Some 669 non-governmental organizations in 79 countries had taken part in the project thus far and the Office was preparing databases on human rights education. She had recently signed an agreement with the International Organization of la Francophonie, and there would be training workshops for field personnel.

52. Responding to questions from the representatives of the Sudan, China, Egypt and Cuba regarding the right to development, she said that the Office's work in that area concentrated on supporting the efforts of the high-level task force to implement that right, in line with the 2008-2010 workplan endorsed by the Human Rights Council. She intended to collaborate with the bodies responsible for implementing the global partnership to mainstream the right to development in their policies and programmes. The Office would strive to raise public awareness of issues related to the right to development and to the global problems that affected it, such as the financial and economic crises, climate change, trade, investment and financing for development.

53. In response to the question by the representative of China, she said that human rights principles underpinned the eight Millennium Development Goals and that an approach based on human rights helped to increase the degree of accountability. That approach, and the principles of participation, non-discrimination and equality, empowered the most vulnerable where their rights were concerned. The main difficulty involved mustering the political will and the necessary resources effectively to realize human rights and the Millennium Development Goals in a coordinated fashion. She was in contact with the heads of several bodies because she believed that the goals were not explicit enough when it came to the protection of human rights and sought to correct that in theory and in practice.

54. With regard to migration, a priority area, she believed that it was too early to describe, as the representative of Mexico had requested, the results of the migrant protection plan, but the Office intended to link human rights and the empowerment of migrants to achieve development in the run-up to the Global Forum on Migration and Development. She mentioned the convening of a thematic discussion by the Human Rights Council in September 2009 on the detention of migrants, which she had attended, and continued to ask Member States to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families which, she believed, would provide the basis for the programme of action. She was also a member of the Global Migration Group, which recommended a human rights-based approach to migration.

55. Turning to the rights of women, in response to the questions of the representatives of Chile and Colombia, she referred to General Assembly resolution 63/311, which supported the establishment of a new entity for gender equality and which she strongly supported. Recalling that the Human Rights Council had asked her to organize a thematic study of the equality of women before the law and to examine the effects of discriminatory legislation on women, she welcomed the fact that the matter was on the Council's agenda.

56. Regarding the composite entity responsible for questions related to gender equality, there would be a new Special Representative of the Secretary-General for sexual violence against women in times of armed conflict. She hoped that all stakeholders would ensure that that new entity would be well-positioned to provide overall direction in the area of gender equality. She guaranteed that the Office of the High Commissioner would work closely with the entity so that women and girls around the world were protected against rights violations. She would appreciate having input on the nomination of candidates for the post.

57. In reply to the question of the representative of Sweden on human rights mainstreaming, she said that the Office of the High Commissioner had played a major part in building stronger partnerships with United Nations bodies aimed at human rights capacity-building, and that had enabled support for about 60 country teams, the deployment of 10 human rights advisers and the dissemination of learning modules to all United Nations country teams to prepare a common course structure. The Office was in close contact with other United Nations bodies to agree on a coordination mechanism to follow up Decision 2.

58. Replying to the question of the representative of Malaysia on the follow-up to the expert seminar on freedom of expression and advocacy of religious hatred, she said that freedom of expression, which was extremely important, had its limitations in international humanitarian law, hence the need for clarity in

definitions and practical application. To follow up the expert seminar, the High Commissioner had suggested that a number of expert workshops should be held on advocacy of hatred to understand better legislative models, legal practices and domestic policies in different parts of the world, as mentioned in the outcome document of the Durban Review Conference. She drew attention to the resolution adopted by the Human Rights Council on the freedom of expression (A/HRC/12/L.14/Rev.1) and said that she would continue to encourage dialogue among religions.

59. Regarding the impact of climate change amounting to human rights violations, raised by the representative of the Maldives, and the assistance the Office of the High Commissioner could give in that regard, proposed by the representative of New Zealand, she said that climate change, as acknowledged by the Human Rights Council and various human rights mechanisms, hindered the effective realization of human rights and that its negative effects were felt by States, economies and, above all, peoples. She urged States to foresee the effects of climate change on human rights and recalled that they were bound by their obligations in all areas, including the implementation of mitigation and adaptation projects. Action was driven by the human dimension of climate change, with its effects on people, especially the most vulnerable. She participated in combating climate change with human rights bodies and expected positive developments after the United Nations Climate Change Conference, to be held in Copenhagen.

60. Concerning the question posed by Sweden on behalf of the European Union regarding the death penalty, she said that the Office of the High Commissioner had prepared a report of the Secretary-General (A/63/293) that contained relevant developments as at 1 July 2008. It also prepared the annual reports of the Secretary-General on the same subject for the Human Rights Council. The twentieth anniversary of the adoption of the Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty, would be observed on 15 December 2009. She asked Member States that still applied the death penalty to establish a moratorium and to consider abolition and ratification of the Second Optional Protocol.

61. She agreed with the representatives of China, Egypt and Cuba that economic, social and cultural rights were a priority. In her view, the promotion and protection of those rights were tied to other fundamental issues, such as non-discrimination, armed conflict, violence, insecurity and impunity. The Office of the High Commissioner had published reports and manuals to strengthen the application of those rights, in addition to two fact sheets on the right to housing and the right to food. Through field offices, it had considerably strengthened the capacities of national partners to monitor violations of economic, social and cultural rights. The adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Universal Periodic Review were two tools that enabled the Office of the High Commissioner and Governments to give greater consideration to the matter and to fulfil their obligations in that regard.

62. The representative of the Sudan had referred to the justiciability of economic, social and cultural rights, a matter of particular interest to her as a former judge, and she recalled that South Africa's Constitutional Court had ruled the matter justiciable. The Office of the High Commissioner had strengthened the legal protection of economic, social and cultural rights and was working to promote the domestic justiciability of those rights, along with the adoption and ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The Office of the High Commissioner was planning to hold training and seminars with judges, representatives of civil society organizations and other stakeholders, along with activities to raise awareness of the importance of ratification of the Optional Protocol and the inclusion of remedies.

63. Turning to the question of the representative of Egypt on trafficking in persons, she said that the Office had taken a human rights approach, centred on victims, that examined the violations of their rights first of all, as well as the factors that made persons more vulnerable to trafficking. Early in 2010 it would publish a commentary on the principles on human rights and human trafficking that would include an overall legal and political analysis of the principles and guidelines, and it would continue to strengthen partnerships with other United Nations bodies and intergovernmental organizations, within the framework of the United Nations Global Initiative to Fight Human Trafficking.

64. Concerning the Office of the High Commissioner's work in the field, she said that

international human rights standards and principles were the main foundation and tool for its efforts. The Office had taken part in national and regional activities and was working to better communicate knowledge and understanding of the obligations binding on parties to treaties and the need for follow-up to recommendations, while making treaty bodies, the universal periodic review and thematic mechanisms the foundations of efforts by States, the United Nations and other partnerships. With the cooperation of United Nations country teams and of the main national partners, such as human rights institutes, the Office of the High Commissioner must maintain a presence in the field to enable countries to follow up the recommendations made by human rights mechanisms. The fact that representatives in the field directly monitored human rights and remained in constant contact with their counterparts in the countries enriched knowledge, gave a better understanding of human rights issues, ensured that emerging problems were noted and anticipated and supported the preparation, in consultation and partnership with national stakeholders, of more suitable and sustainable technical cooperation programmes.

65. In response to the question asked by the representative of the United Kingdom of Great Britain and Northern Ireland regarding the work of the Office of the High Commissioner in Nepal, she said that she was proud of its activities and that it would take a long time to list them all. For example, as a result of investigations and awareness-raising by her Office, the Government of Nepal had established a special legal commission to investigate serious incidents and intended to create a commission to deal with forced disappearance, which would result in criminal penalties. The efforts of the Office of the High Commissioner had prevented the passage of a poorly drafted bill concerning the creation of a truth and reconciliation commission, led to capacity-building among human rights bodies and civil society organizations and encouraged the holding of training workshops for the media and security forces. Its monitoring of demonstrations had led to a reduction in the use of violence. Finally, it had played an important role within the protection cluster by applying a human rights approach in emergency situations.

66. In response to the question of Sweden on behalf of the European Union regarding credible investigations of alleged human rights violations, she said that in her view an independent expert mechanism was necessary to carry out investigations freely and without interference. Any independent mechanism investigating alleged human rights violations must be able to monitor and assess compliance with the Government's obligations vis-à-vis accountability, to document the available information on violations and to formulate recommendations to convert those violations while respecting international rules. Lastly, victims would be able to report their concerns more easily if the investigating mechanism was not affiliated either with the Government or the parties to the conflict. Responding to the question of the representative of Liechtenstein, she said that domestic investigations and prosecutions must be facilitated on the basis of the principle of complementarity contained in the Rome Statute by reinforcing, inter alia, domestic mechanisms and national legal capacities. The rapid response unit had responded immediately in many crisis situations and had allowed for the emergency application of various Human Rights Council resolutions and decisions, at the request of countries and peacekeeping missions with which cooperation had been strengthened.

67. In response to the representatives of Palestine, Egypt, the Syrian Arab Republic and Sweden regarding the lack of references in her report to the Goldstone report, she said that the Human Rights Council had adopted resolution A/HRC/RES/S-12/1 on the matter, which would be examined by the General Assembly, and that she had not wanted to encroach on its mandate. The report of the fact-finding mission had made important recommendations aimed at ending the impunity enjoyed by the perpetrators of human rights violations committed by all parties to the conflict and proposed reparations for the victims, as well as provisions to prevent new violations. On many occasions she had said that she hoped that the perpetrators would be held responsible for their actions and that she supported the recommendations of the fact-finding mission, while stating that accountability must not be overshadowed in the name of the peace process and that the two could not be disassociated. She welcomed the fact that the Human Rights Council had adopted the report's recommendations and waited with interest for the parties concerned and the competent United Nations bodies to follow it up. All other parties must carry out, without delay, credible, independent and transparent investigations into alleged violations of human rights and humanitarian

international law, in accordance with international rules. For the sake of impartiality, she would like to see questions of accountability addressed in all situations where serious conflicts were ongoing and civilians were in danger.

68. In response to the question by the representative of the Syrian Arab Republic concerning how her Office could protect human rights in territories under foreign occupation, she said that she was fully aware of the special vulnerability of peoples living under occupation. She stressed the comprehensive application of international humanitarian law, international human rights law, refugee law and international criminal law. The Office of the High Commissioner maintained a presence in those territories, where it offered assistance, notably in the occupied Palestinian territory, and it would continue to work to protect vulnerable persons.

69. Regarding what countries could do to help the Office of the High Commissioner to achieve its goals, she said that she constantly requested the assistance of States and actively supported domestic and international justice and accountability. She invited countries to take advantage of training programmes aimed at strengthening legal systems. The support of States was essential if the Office of the High Commissioner was to be more effective. It counted on Member States not to hamper accountability by raising issues of a political nature. Impartiality was required every time that matters of human rights violations were addressed, since no country was immune from such violations.

70. **Mr. Gambari** (Special Adviser on Myanmar), introducing the report of the Secretary-General on the situation of human rights in Myanmar (A/64/334), said that during his visit in July 2009, the Secretary-General had made specific proposals to the senior leadership of Myanmar, based on his five-point agenda. On that occasion, the Secretary-General had stressed that it was up to the Government to take the necessary measures to hold free and fair elections and to encourage development, but he had also invited political parties and ethnic groups to participate constructively in the political process. After the visit, at its second high-level meeting, the Group of Friends of the Secretary-General on Myanmar demonstrated the need for stronger agreement and unity of action in three aspects: to urge Myanmar to work with the United Nations to create the necessary conditions for the holding of credible elections; to convince Myanmar to take advantage of the experience acquired by the United Nations in the field of national reconciliation, the respect for human rights, sustainable development and democratic transition; to signal the international community's willingness to help the people of Myanmar to address the challenges they faced. The Prime Minister of Myanmar had confirmed to the Secretary-General that his country was committed to the holding of free and fair elections in 2010.

71. Concerning the events that had taken place since July, he said that the Secretary-General's view was that by sentencing Daw Aung San Suu Kyi, Myanmar had missed the opportunity to commit to an era of political openness, but that Government efforts to avert tension with armed ethnic groups were of great interest. Although Myanmar had recently taken encouraging steps, including the release of over 130 political prisoners, the resumption of talks between Daw Aung San Suu Kyi and the Government, and her meeting with foreign diplomats to discuss sanctions, those steps remained an incomplete response to the specific proposals made by the Secretary-General.

72. An important juncture in the political transition would take place in 2010, when Myanmar would prepare to hold its first elections for almost 20 years. It was an opportunity to promote change to create a peaceful, democratic, prosperous and united country. The credibility of the political process would remain in doubt unless Myanmar took measures to release all political prisoners, including Daw Aung San Suu Kyi, and to allow them to participate freely in the political life of their country; to engage in dialogue with the opposition and ethnic groups; and to create conditions conducive to inclusive and credible elections. The need to address the pressing humanitarian and socio-economic challenges facing the people of Myanmar was equally important. The Government could do more, with the support of the international community, to address humanitarian needs, meet the Millennium Development Goals and exploit its economic potential.

73. Myanmar must undertake a process of national reconciliation and democratic transition based on the respect for human rights, dialogue and mutual understanding. By collaborating constructively with the Secretary-General within the framework of the good offices mandate, it would affirm its sovereignty and its willingness to make cooperation with the United Nations a cornerstone of its foreign policy. It

was up to Myanmar to profit from the political transition to deliver on its people's aspirations, and to respond to the expectations and encouragements of the international community.

74. **Mr. Thaung Tun** (Myanmar) said that the Secretary-General had indeed stated in his report that Myanmar intended to hold free and fair elections in 2010 and to hand over power to the Government that would be formed in accordance with the Constitution. The Secretary-General had also been informed of the efforts made to engage Daw Aung San Suu Kyi and of the fact that the absence of progress had not been due to the lack of willingness on the part of the Government. He regretted, however, that the other issues in the report had not been clearly explained. Daw Aung San Suu Kyi had met the Minister of Employment and the representatives of Australia, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Furthermore, 7,114 prisoners had been released the previous month. The intervention of the Secretary-General in the trial of a Myanmar citizen under Myanmar laws could be regarded as exceeding the bounds of his good offices mission. There were no prisoners of conscience in Myanmar.

75. The Government was taking the necessary steps to hold free and fair elections. Electoral laws would be promulgated and an electoral commission would be formed soon. The holding of multiparty elections was an important step in a transition to a peaceful, modern and democratic State. With regard to socio-economic conditions, progress had been palpable since peace had again prevailed in the country. Myanmar was striving to create the environment of peace and stability necessary for democracy. The Government and people of Myanmar must fashion their own destiny. Myanmar was confident that the Secretary-General would use his good offices mission to assist it to achieve its goal.

76. **Mr. Ashiki** (Japan) welcomed the decision by Myanmar to release political prisoners but was concerned by the sentencing of Daw Aung San Suu Kyi. Japan called for the release of all political prisoners before the 2010 elections and for the strengthening of democracy with the participation of all the parties concerned. Although the mediation activities and efforts of the United Nations could not be underestimated, Myanmar's neighbours had an important role to play. He asked how the Special Adviser to the Secretary-General saw collaboration with Asian countries in support of the work in Myanmar.

77. **Ms. Taylor** (New Zealand) asked about the next steps in the Secretary-General's good offices mission, including the follow-up to the high-level meeting of the Group of Friends on Myanmar, and whether the Special Adviser to the Secretary-General would soon return to the country. She also asked what the international community could do to help to ease tension between the Government and armed rebel groups.

78. **Ms. Mårtensson** (Sweden), speaking on behalf of the European Union, said that the European Union had expressed its concerns regarding Myanmar in the draft resolutions submitted to the General Assembly year after year. The upcoming draft resolution would refer to the human rights situation in relation to the 2010 elections. Based on the information contained in the report of the Secretary-General, she asked what would be the impact on the elections if no electoral law was passed and what the provisions of such a law should be. Because the drafting and adoption of the Constitution of Myanmar had not enjoyed the participation of all the concerned parties, she would also like to know what the Government could do to amend the Constitution to bring it in line with international human rights standards. She also asked what steps the Special Adviser had taken to coordinate with the Special Rapporteur on the situation of human rights in Myanmar.

79. **Mr. Tagle** (Chile), echoing the representative of Myanmar, said that only the people of Myanmar could decide their own future, but they must do so through free and truly democratic elections. He condemned the sentencing of Daw Aung San Suu Kyi, which could not help to create the right conditions for free and fair elections, and expressed the hope that the situation would change. He asked what kind of regional collaboration existed. From its own experience, Chile believed that regional organizations had a fundamental role to play in successful elections.

80. **Ms. Sicade** (United States of America) said that the release of political prisoners was a prerequisite for progress in national reconciliation and the transition towards democracy. She asked whether Myanmar intended to release other political prisoners soon.

81. **Ms. Horsington** (Australia) asked what the international community should do to engage Myanmar constructively.

82. **Mr. Gambari**, in response to the comments by the representative of Myanmar, said that one of the aims of his remarks had been to update the information contained in the report, which had been produced several months earlier. The Secretary-General was encouraged by the steps taken by the Government of Myanmar after his last visit, but he was awaiting responses to the concrete proposals made, including elections set for 2010 as the fifth stage in the seven-point road map. The recommendations of the Secretary-General would make the process more credible and the results more acceptable.

83. In response to the representative of Japan regarding coordination between the United Nations and the Association of Southeast Asian Nations (ASEAN), he said that the Secretary-General's good offices mission allowed for close coordination with the countries of ASEAN, as a result of the summit meetings between the United Nations and ASEAN leaders, bilateral consultations and the meetings of working groups in New York, spearheaded by Indonesia. The Group of Friends of the Secretary-General on Myanmar had held nine meetings, including two at the ministerial level, with the active participation of several ASEAN members.

84. In response to the representative of New Zealand, he said that he was prepared to return to Myanmar to hold productive talks and welcomed the determination of the principal States concerned to encourage Myanmar to follow up the concrete proposals made by the Secretary-General to achieve the common goals of all: a united, peaceful and prosperous Myanmar in a transition to democracy, fully respecting the human rights of its people. As for how the Secretary-General's good offices mission and the international community could lessen tension between the Government and armed ethnic groups, the only possibility lay in dialogue between the Government and the other stakeholders.

85. In response to the question of the representative of Sweden, he pointed out that the Secretary-General had clearly told the senior leadership of Myanmar that the sooner the electoral laws were passed, the sooner confidence would be established and participation would be encouraged. He had met to discuss that agenda with the representatives of the 10 political parties registered in Myanmar and had asked them to play an active role in the political process. It would be beneficial for the Government, the opposition groups and all stakeholders to engage in dialogue to establish conditions conducive to free and fair elections and to discuss the Constitution and its future amendments and all political issues in general.

86. Concerning coordination with the Special Rapporteur on the situation of human rights in Myanmar, he said that pursuant to General Assembly resolution 63/245, which authorized the Secretary-General to provide his good offices, he and the Special Rapporteur maintained close contact and exchanged views before, during and after each visit to Myanmar.

87. In reply to the representative of the United States on the prospects for another release of political prisoners, he said that the question must be put to the representative of Myanmar and that he had no information on the matter other than the periodic amnesties granted to political prisoners by Myanmar.

88. Finally, in response to the question of the representative of Australia, he said that he had always recommended cooperation between the international community and the Government of Myanmar to promote common goals.

The meeting rose at 1.05 p.m.